

23.203

(3) Storm water management in accordance with section 438 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17094) as implemented in <http://www.epa.gov/nps/lid/section438>.

[76 FR 31400, May 31, 2011]

23.203 Energy-efficient products.

(a) Unless exempt as provided at 23.204—

(1) When acquiring energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP)—

(i) Agencies shall purchase ENERGY STAR® or FEMP-designated products; and

(ii) For products that consume power in a standby mode and are listed on FEMP's Low Standby Power Devices product listing, agencies shall—

(A) Purchase items which meet FEMP's standby power wattage recommendation or document the reason for not purchasing such items; or

(B) If FEMP has listed a product without a corresponding wattage recommendation, purchase items which use no more than one watt in their standby power consuming mode. When it is impracticable to meet the one watt requirement, agencies shall purchase items with the lowest standby wattage practicable; and

(2) When contracting for services or construction that will include the provision of energy-consuming products, agencies shall specify products that comply with the applicable requirements in paragraph (a)(1) of this section.

(b) Information is available via the Internet about—

(1) ENERGY STAR® at <http://www.energystar.gov/products>; and

(2) FEMP at http://www1.eere.energy.gov/femp/procurement/eep_requirements.html.

[72 FR 65872, Nov. 23, 2007]

23.204 Procurement exemptions.

An agency is not required to procure an ENERGY STAR® or FEMP-designated product if the head of the agency determines in writing that—

(a) No ENERGY STAR® or FEMP-designated product is reasonably avail-

48 CFR Ch. 1 (10–1–15 Edition)

able that meets the functional requirements of the agency; or

(b) No ENERGY STAR® or FEMP-designated product is cost effective over the life of the product taking energy cost savings into account.

[72 FR 65872, Nov. 23, 2007]

23.205 Energy-savings performance contracts.

(a) Agencies should make maximum use of the authority provided in the National Energy Conservation Policy Act (42 U.S.C. 8287) to use an energy-savings performance contract (ESPC), when life-cycle cost-effective, to reduce energy use and cost in the agency's facilities and operations.

(b)(1) Under an ESPC, an agency can contract with an energy service company for a period not to exceed 25 years to improve energy efficiency in one or more agency facilities at no direct capital cost to the United States Treasury. The energy service company finances the capital costs of implementing energy conservation measures and receives, in return, a contractually determined share of the cost savings that result.

(2) Except as provided in 10 CFR 436.34, ESPC's are subject to subpart 17.1.

(c) To solicit and award an ESPC, the contracting officer—

(1) Must use the procedures, selection method, and terms and conditions provided in 10 CFR part 436, subpart B; at http://www1.eere.energy.gov/femp/financing/espcs_regulations.html; and

(2) May use the "Qualified List" of energy service companies established by the Department of Energy and other agencies.

[66 FR 65352, Dec. 18, 2001. Redesignated at 72 FR 65872, Nov. 23, 2007; 76 FR 31400, May 31, 2011; 77 FR 204, Jan. 3, 2012]

23.206 Contract clause.

Unless exempt pursuant to 23.204, insert the clause at 52.223–15, Energy Efficiency in Energy-Consuming Products, in solicitations and contracts when energy-consuming products listed in the ENERGY STAR® Program or FEMP will be—

(a) Delivered;